HC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 JUL -7 AM 11: 14

UNITED STATES OF AMERICA,	)	Magistrate Docket No.
Plaintiff,	)	'08 MJ 2050 KNH
v.	)	COMPLAINT FOR VIOLATION OF:
Roberto DIAZ-Sarmiento,	)	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about **July 2, 2008** within the Southern District of California, defendant, **Roberto DIAZ-Sarmiento,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 7th DAY OF **JULY, 2008**

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

HC

CONTINUATION OF COMPLAINT:
Roberto DIAZ-Sarmiento

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On July 02, 2008, United States Border Patrol Field Operations Supervisor (FOS) M. Gonzalez was observing northbound traffic on Interstate 5 in Oceanside, California near the Las Pulgas exit. FOS Gonzalez was in a marked service sedan and was observing traffic while at a fixed, elevated position. At approximately 7:00 pm FOS Gonzalez observed a black Jeep Cherokee bearing CA plate approach his fixed location. As the vehicle neared FOS Gonzalez was able to observe three male subjects look toward his marked service sedan and then duck below the rear passenger window sill of the vehicle in an attempt to hide from his view. This is a common practice amongst illegal aliens attempting conceal themselves from view while traveling through an area that is frequently patrolled by the United States Border Patrol. FOS Gonzalez was in an elevated static position and as the vehicle passed his location he was able to observe a male subject lying down in the rear cargo compartment of the above stated vehicle. Based on these observations FOS Gonzalez decided to conduct a vehicle stop in order to conduct an immigration inspection on the occupants.

FOS Gonzalez pulled out of his fixed position, pulled behind the suspect vehicle and activated his emergency equipment. The vehicle pulled over on I-5 north just north of the San Clemente Border Patrol Checkpoint which is located in San Diego County. FOS Gonzalez approached the vehicle, identified himself as a United States Border Patrol Agent and conducted an immigration inspection on the occupants. All six occupants including one identified as the defendant **Roberto DIAZ-Sarmiento**, freely admitted to being citizens of Mexico illegally present in the United States. Agent C. Tobin responded at approximately 7:05 pm and assisted FOS Gonzalez in placing all six subjects into custody. All subjects and the vehicle were transported to the San Clemente Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **September 18, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally.

CONTINUATION OF COMPLAINT:
Roberto DIAZ-Sarmiento

Executed on July 4, 2008 at 10:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **July 2 2008**, in violation of Title **8**, United States Code, Section **1326**.

William McCurine Jr.
United States Magistrate Judge

7/4/08, 1224 hrs
Date/Time